

March 23, 2005

Gary M. Jackson
Assistant Administrator for
Size Standards
409 Third Street, SW
Washington, DC 20416

Re: RIN 3245-AF22 / RIN 3245-ZA02

Dear Mr. Jackson:

We are hereby submitting the following comments to RIN 3245-ZA02; Small Business Size Standards; Selected Size Standards Issues.

By way of introduction, EnviroTemps, Inc. d/b/a ETI Professionals Inc. ("ETI") is a small women-owned, certified SDB and 8(a) certified firm. ETI provides technical support services to the federal government and private sector. In essence, we provide people on a project basis in the environmental, engineering, IT and science fields.

Susan K. Holland started ETI in December of 1992 by borrowing \$1,500 on her credit card. In the early years, Ms. Holland funded the operations and growth of ETI through personal credit cards because no financial institutions would lend her a dime. In 2004 our gross receipts were approximately \$11.8 million. ETI is the great American success story. Among the many awards ETI has received include three SBA Administrator's Award for Excellence.

Approximately 70% of our gross receipts are from direct contracts with the federal government. ETI submits numerous proposals every year to various government agencies pursuant to specific Request for Proposals. Further, ETI at times competes directly with staffing agencies for federal contracts.

While we intend to address all of the issues currently before the Small Business Administration regarding Size Standards we will first address the most outrageous proposal currently under consideration – the Temporary Staffing Franchise industry's

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request for an exemption from its franchise affiliation regulations. The staffing industry is like any other industry and should be treated the same by the SBA and the size standards. The reason, in part, for the affiliation regulation is recognition that because of the economies of scale it is impossible for an independent business to compete with a huge franchisor and its franchisees. The purchasing power that a franchise has simply dominates any independent true small business.

The Small Business Administration has a long-standing position concluding that a franchisee is affiliated with the franchisor if certain practices are established. The SBA's long-standing position is supported by a long line of Federal Court case law and years of SBA policy decisions. There is no reason to exempt staffing firms from this regulation. In the staffing industry, prices are based on multipliers that are applied to an employee's wages. The multiplier is made of, in large part, benefits and overhead. Franchises are able to lower multipliers because they are able to purchase benefits at a lower cost (they are able to spread the risk over more employees) and lower fixed overhead costs because they have more employees to cover the overhead. The idea behind the size standards is to allow small businesses to compete against business with the same number of employees (or similar gross revenues). This regulation change will destroy that reasoning.

Below please find a response to the four questions posed in the advanced notice of proposed rulemaking:

1. *Do SBA's current franchise regulations hamper the ability of franchisees to compete in the temporary industry?* Absolutely not. Franchisees in the staffing industry have the ability to compete with all other businesses that have the same purchasing power and economies of scale as the franchisee. The staffing industry is no different than any other industry and should not be treated any differently.
2. *Would allowing this exemption continue to allow for temporary staffing franchisees to be "independently owned and operated" businesses?* If this exemption is allowed American success stories such as ETI will no longer be possible in the staffing industry. A true small business simply can not effectively compete with a franchise. If this exemption is allowed the only staffing businesses that will be competitive will be franchises. This will eliminate the true small business owner and the flexibility and ingenuity of the independent business owner.
3. *Does allowing this exemption give franchisors too much control over their franchisees?* Yes. Franchisees have some bargaining power with their franchisor because of the threat that they can go independent and compete for work with true small businesses. If that threat is removed by making staffing firms exempt from this regulation, that threat will be removed and franchisors will have far more control over franchisees.

4. *Would allowing this exemption give franchisors and franchisees a competitive advantage in contacting over independent temporary staffing business?* There is no doubt the answer is yes! As described above if this exemption is granted the SBA will eliminate the true small business from any competition for federal contracts.

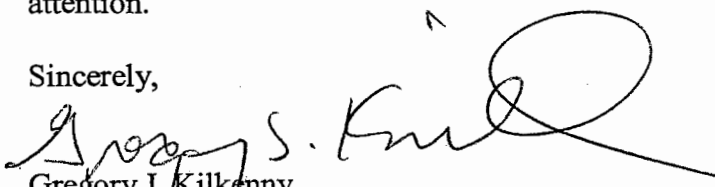
In Summary, large business and its franchisees are attempting to manipulate the political process and induce the SBA into taking a position that harms legitimate small business and benefits some of the largest corporations in America. We believe that any proposed regulations attempting to overturn the Federal Courts and the SBA's long-standing policy decisions will result in a politically embarrassing situation for the SBA where it becomes apparent that the SBA is working against legitimate small business and advancing the interests of very large corporations. Short of rank political favoritism, there is no legitimate reason that franchisees in the staffing industry should be treated any differently than franchisees in any other industry. The SBA should not allow large business to pervert the political process nor should the SBA allow itself to be lured into proposing legislation that is so clearly anti-small business. We respectfully submit that members of Congress will take a negative view of the SBA acting as an agent of large business to the detriment of the small businesses that the SBA was created to promote.

With respect to the size standard issues, it is our position that the current system works fairly well. We have questions as to how some of the size standards are established, but otherwise we believe that the system works and is easy to understand. We do believe that it is important to grandfather existing small businesses from revised size standards. Small businesses spend extensive resources tracking and pursuing certain contract opportunities based on the current rules. To change the rules and immediately eliminate those opportunities would waste precious small business resources.

We take the position that any changes to the size standards should be implemented gradually and not discriminate against specific industries or business lines. We believe that when it comes to subcontracting that a small business should be allowed to certify under their primary NAICS code and not the NAICS code designated in the RFP. That would allow more small business to get involved (even as a subcontractor) in federal government contracts.

Thank you for the opportunity to submit these comments to proposed legislation. This is an area very important to me and my business. I would welcome the opportunity to address any questions or issues raised in this letter or to serve on any committee or board studying the issues surrounding proposed regulations. Thank you for your time and attention.

Sincerely,



Gregory J. Kilkenny
Vice President